



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	HB0329	Title:	Donut area population included in resort community population
Primary Sponsor:	Brown, Dee	Status:	As Introduced

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: This bill requires that the “donut” area population is included in a resort area population calculation and provides that the authority to impose a resort tax is rescinded if a resort community exceeds the maximum population, among other items. There is no fiscal impact to the state.

FISCAL ANALYSIS

Assumptions:

Department of Commerce (DOC):

- Currently, four resort communities have implemented the tax under current law. They are Red Lodge (current population 2,449), Virginia City (current population 141), West Yellowstone (current population 1,435), and Whitefish (current population 8,083). The City of Polson (current population 5,046) and the Town of Ennis (current population 1,013) are also designated as resort communities but have not implemented the tax.
- For the purposes of this fiscal note, the DOC has determined that calculating the population within the “donut” area would be accomplished using GIS and Census 2000 population data for either blocks or block groups for the municipal extensions as it is the most current information available.
- The DOC would be required to initiate annual population monitoring of the affected communities.
- The DOC does not anticipate a measurable impact to existing staff resources.

Technical Concerns:**Department of Commerce (DOC):**

1. The DOC involvement in establishing a resort tax is limited to the issue of whether the requesting community meets the statutory criteria. Currently, once the department designates a resort community or resort area, the statute provides for exclusively local administration of the resort tax that may or may not be imposed after designation. There is no process for reevaluation of the designation of a resort community or resort area under the Resort Tax Act. The department needs clarification as to what process it would follow to rescind designation of a resort community.
2. Section 76-2-310, MCA, is currently the subject of litigation in the Eleventh Judicial District (Flathead County) and the Montana Supreme Court. At issue is the authority of a county to unilaterally rescind the municipality's extraterritorial zoning and subdivision powers under Section 76-2-310, MCA. Depending on the result of this litigation, the DOC may have difficulty determining when a municipality has legally and properly "exten[ded its] ... municipal zoning and subdivision regulations beyond municipal boundaries..." whether or when such authority has been rescinded or overridden by the county, and what constitutes a "change" to that extension that must be reported to the department.
3. Of the six resort communities currently designated in the state, the only one that also currently has extraterritorial zoning is the City of Whitefish. It appears that upon passage of the bill, the City of Whitefish would exceed the population maximum, and its authority to impose a resort tax would be rescinded on December 31, 2010.

Sponsor's Initials

Date

Budget Director's Initials

Date